

Message Text

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ACTION L-03

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E. O. 11652: N/A
TAGS: CARR, PFOR, MX
SUBJECT: U. S.-MEXICO TREATY ON EXECUTION OF PENAL
SENTENCES - IMPLEMENTATION OF ARTICLE VIII -(2).

REF: MEXICO 7914

DEPARTMENT PASS JUSTICE

AS INDICATED REF TEL FOLLOWING IS DRAFT TEXT OF AGREE-
MENT TO IMPLEMENT ARTICLE VIII (2) OF THE U. S.-MEXICO
TREATY ON EXECUTION OF PENAL SENTENCES.

A) ENGLISH TEXT - BEGIN QUOTE:

ATTORNEY GENERAL OSCAR FLORES SANCHEZ
PROCURADURIA GENERAL DE LA REPUBLICA
MEXICO CITY, MEXICO.

DEAR MR. ATTORNEY GENERAL:

I REFER TO THE MATTER OF THE IMPLEMENTATION OF ARTICLE
VIII (2) OF THE TREATY BETWEEN THE UNITED STATES AND
MEXICO ON EXECUTION OF PENAL SENTENCES DONE AT MEXICO
CITY NOVEMBER 25, 1976.
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INASMUCH AS THIS ARTICLE PROVIDES THAT THE PARTIES MAY
ENTER INTO A SPECIAL AGREEMENT FOR THE TRANSFER OF
PERSONS ACCUSED OF AN OFFENSE BUT DETERMINED TO BE OF
UNSOOUND MENTAL CONDITION FOR CARE IN INSTITUTIONS IN
THEIR COUNTRY OF NATIONALITY, I PROPOSE THAT THE PRO-
VISIONS OF THIS LETTER SHALL APPLY TO:

- 1) CASES OF MENTALLY ILL NATIONALS OF EITHER COUNTRY WHO HAVE BEEN CHARGED WITH AN OFFENSE IN THE OTHER COUNTRY AND DETERMINED BY THE AUTHORITIES OF THE CHARGING COUNTRY TO BE OF SUCH UNSOUND MENTAL CONDITION AS TO BE UNABLE TO STAND TRIAL; AND
- 2) CASES OF MENTALLY ILL NATIONALS OF EITHER COUNTRY WHO AFTER CONVICTION AND SENTENCE FOR AN OFFENSE IN THE OTHER COUNTRY HAVE BEEN DETERMINED IN ACCORDANCE WITH THE LAW OF THE SENTENCING COUNTRY TO BE OF UNSOUND MENTAL CONDITION.

IN A CASE IN WHICH THE MENTALLY ILL PERSON WAS CHARGED OR CONVICTED OF A FEDERAL OFFENSE IN THE OTHER COUNTRY, THE EMBASSY OF THE PERSON CHARGED OR CONVICTED WILL PETITION THE AUTHORITY OF THE TRANSFERRING STATE FOR THE TRANSFER OF SUCH PERSON. IF THAT AUTHORITY FINDS THE TRANSFER TO BE APPROPRIATE IT WILL TURN OVER CUSTODY OF SUCH PERSON TO THE APPROPRIATE AUTHORITIES OF THE RECEIVING STATE FOR TRANSFER OF THE PERSON TO HIS COUNTRY OF NATIONALITY FOR TREATMENT IN ACCORDANCE WITH ITS LAWS. IN A CASE IN WHICH THE MENTALLY ILL PERSON WAS CHARGED OR CONVICTED OF AN OFFENSE BY A STATE OF THE OTHER COUNTRY, THE EMBASSY OF THE PERSON CHARGED OR CONVICTED WILL PETITION THE AUTHORITY OF THE TRANSFERRING STATE FOR THE TRANSFER OF SUCH PERSON. THE AUTHORITY OF THE TRANSFERRING STATE WILL INVESTIGATE THE MATTER AND IF LIMITED OFFICIAL USE

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IT FINDS THE REQUEST TO BE APPROPRIATE, EXERT ITS BEST EFFORTS TO SECURE TRANSFER OF SUCH PERSON. IF THE CHARGING OR CONVICTING STATE AGREES UNDER ITS LAW THE AUTHORITY WILL TURN OVER CUSTODY OF SUCH PERSON TO THE APPROPRIATE AUTHORITIES OF THE RECEIVING STATE, FOR TRANSFER TO HIS COUNTRY OF NATIONALITY FOR TREATMENT IN ACCORDANCE WITH ITS LAWS.

IF YOU ARE IN ACCORD WITH THE PROVISIONS I HAVE OUTLINED FOR HANDLING MENTALLY ILL CASES, I PROPOSE THAT THIS LETTER AND YOUR REPLY THERETO CONSTITUTE AN AGREEMENT TO IMPLEMENT THE PROVISIONS OF ARTICLE VIII (2) OF THE TREATY. SIGNED - GRIFFIN BELL, ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA. END QUOTE

(THE RESPONSE WOULD QUOTE THE ABOVE AND AGREE THAT IT WOULD CONSTITUTE AN AGREEMENT TO IMPLEMENT ARTICLE VIII (2).)

B) SPANISH TEXT - BEGIN QUOTE

PROCURADOR GENERAL OSCAR FLORES SANCHEZ
PROCURADURIA GENERAL DE LA REPUBLICA
MEXICO, D. F., MEXICO

ESTIMADO SENOR PROCURADOR GENERAL:
HAGO REFERENCIA AL CASO DE LA IMPLEMENTACION DEL
ARTICULO VIII (2) DEL TRATADO ENTRE LOS ESTADOS UNIDOS
Y MEXICO SOBRE LA EJECUCION DE SENTENCIAS PENALES HECHO
EN LA CIUDAD DE MEXICO EL 25 DE NOVIEMBRE DE 1976.

EN TANTO ESTE ARTICULO PROVEE QUE LAS PARTES PUEDEN
LLEGAR A UN ACUERDO ESPECIAL PARA QUE LAS PERSONAS
ACUSADAS DE UN DELITO PERO DETERMINADAS QUE SUFREN UNA
ENFERMEDAD O ANOMALIA MENTAL PUEDAN SER TRASLADADAS

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PARA SER ATENDIDAS EN INSTITUCIONES EN EL PAIS DE SU
NACIONALIDAD, PROONGO QUE LAS PROVISIONES DE ESTA CARTA
DEBAN APLICARSE A:

1) CASOS DE NACIONALES QUE SUFREN UNA ENFERMEDAD O
ANOMALIA MENTAL DE CUALQUIERA DE LOS PAISES QUE HAN
SIDO ACUSADOR POR UN DELITO EN EL OTRO PAIS Y DETER-
MINADOS POR LAS AUTORIDADES DEL PAIS ACUSADOR DE QUE
SUFREN UNA ENFERMEDAD O ANOMALIA MENTAL QUE NO LES
PERMITA SEGUIR UN JUICIO; Y

2) CASOS DE NACIONALES DE CUALQUIERA DE LOS PAISES
QUE SUFRAN UNA ENFERMEDAD O ANOMALIA MENTAL QUIENES
DESPUES DE SER SENTENCIADOS POR UN DELITO EN EL OTRO
PAIS HAYAN SIDO DETERMINADOS DE ACUERDO CON LA LEY
DEL PAIS SENTENCIANTE DE SER PERSONAS QUE SUFREN UNA
ENFERMEDAD O ANOMALIA MENTAL.

EN EL CASO EN QUE LA PERSONA QUE SUFRE UNA ENFERMEDAD
O ANOMALIA MENTAL HAYA SIDO SENTENCIADA POR UN DELITO
FEDERAL EN EL OTRO PAIS, LA EMBAJADA DE LA PERSONA

ACUSADA O SENTENCIADA SOLICITARA A LA AUTORIDAD DEL
ESTADO TRANSFERENTE LA TRANSFERENCIA DE DICHA PERSONA.
SI LA AUTORIDAD ENCUENTRA QUE LA TRANSFERENCIA SEA
APROPIADA ENTREGARA CUSTODIA DE DICHA PERSONA A LAS
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AUTORIDADES APROPIADAS DEL ESTADO RECIBIDOR PARA LA
TRANSFERENCIA DE LA PERSONA A SU PAIS DE ORIGEN PARA
TRATAMIENTO DE ACUERDO CON SUS LEYES.

EN EL CASO EN QUE LA PERSONA QUE SUFRE UNA ENFERMEDAD
O ANOMALIA MENTAL QUE HAYA SIDO SENTENCIADA POR UN DELITO
POR UN ESTADO DEL OTRO PAIS, LA EMBAJADA DE LA PERSONA
ACUSADA PEDIRA A LA AUTORIDAD DEL ESTADO TRANSFERENTE
POR LA TRANSFERENCIA DE DICHA PERSONA. LA AUTORIDAD
DEL ESTADO TRANSFERENTE INVESTIGARA EL ASUNTO Y SI
ENCUENTRA QUE LA PETICION ES APROPIADA, EJERCERA SUS
MEJORES ESFUERZOS PARA OBTENER LA TRANSFERENCIA DE DICHA
PERSONA. SI EL ESTADO SENTENCIANTE APRUEBA BAJO SUS
LEYES LA AUTORIDAD ENTREGARA CUSTODIA DE DICHA PERSONA
A LAS AUTORIDADES APROPIADAS DEL ESTADO RECIBIDOR, PARA
SU TRANSFERENCIA A SU PAIS DE ORIGEN PARA TRATAMIENTO
DE ACUERDO CON SUS LEYES.

SI USTED CONCUERDA CON ESTAS PROVISIONES QUE HE DES-
CRITO PARA EL MANEJO DE PERSONAS QUE SUFREN UNA ENFER-
MEDAD O ANOMALIA MENTAL, PROPONGO QUE ESTA CARTA Y SU
RESPUESTA A ELLA CONSTITUYAN UN ACUERDO PARA IMPLEMENTAR
LAS PROVISIONES DEL ARTICULO VIII (2) DEL TRATADO.

GRIFFIN BELL, PROCURADOR GENERAL DE LOS ESTADOS UNIDOS
DE AMERICA. END QUOTE. THOMPSON

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